

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

ELLIS ANDERSON

PLAINTIFF

VS.

CIVIL ACTION NO. 5:18-cv-7(DCB)(MTP)

B & G BACKHOE, INC.,
and OTIS PARNELL

DEFENDANTS

ORDER

This cause is before the Court sua sponte to address the issue of subject matter jurisdiction. The plaintiff, Ellis Anderson, filed his Complaint in the Circuit Court of Pike County, Mississippi, on November 30, 2017. He alleges that defendant Otis Parnell negligently caused a collision between the plaintiff's vehicle and the truck which defendant Parnell was driving. He further alleges that as a result of the accident, he

a. suffered serious, painful and permanent bodily injuries, great physical pain and mental anguish, severe and substantial emotional distress, loss of the capacity for the enjoyment of life;

b. was, is and will be required to undergo medical treatment and to incur medical costs and expenses in order to alleviate injuries, pain and suffering;

c. was, is and will be precluded from engaging in normal activities and pursuits, including a loss of ability to earn money and of actual earnings;

All of the Plaintiff's losses were, are and will be due solely to and by reason of the carelessness and negligence of the Defendants, without any negligence or want of due care on the Plaintiff's part contributing thereto. The Plaintiff sustained damage to his vehicle, received serious, painful, disabling and permanent bodily injuries which required him to incur or become liable for certain medical and other expenses, and he sustained an

impairment in his earning capacity.

WHEREFORE, Plaintiff demands judgment against defendant for \$75,000.00 for bodily injury and \$50,000 for medical expenses, damage to vehicle and costs of this action.

Complaint, pp. 3-4.

Defendants B & G Backhoe, Inc., and Otis Parnell removed this action to this Court on January 8, 2018 (docket entry 1).

On April 9, 2018, the plaintiff filed his Initial Disclosures including, inter alia, his computation of damages as follows:

(1) Emergency Room South West Mississippi Regional Medical Center - November 28, 2016. - \$4,195.50.

(2) Hennington Wellness Center - Treatment under Dr. Stephen Hennington - \$4,745.00.

Total known medical bills of Plaintiffs for computation purposes - \$8,940.00.

The total extent of Plaintiff's injuries from this accident and future medical prognoses remain unknown at this time.

The Plaintiff's 2003 Ford Explorer was totaled in the accident. The current book value of the vehicle is \$3,800.00. These are all known compensatory damages at this time.

Plaintiff's Initial Disclosures, p. 3 (docket entry 12).

Thus, the total amount of compensatory damages claimed by the plaintiff is \$12,740.00.

Defendants B & G Backhoe, Inc., and Otis Parnell have not presented any summary judgment type evidence in support of the Court's exercise of federal diversity jurisdiction. However, the plaintiff has served his Initial Disclosures, which appear to fall

far short of the \$75,000.00 requisite amount in controversy. It is not facially apparent from the plaintiff's Complaint that the amount in controversy exceeds \$75,000, exclusive of interest and costs. Furthermore, the Court has not been presented with any summary judgment type evidence showing that the value of the plaintiff's claims supports an exercise of diversity jurisdiction under 28 U.S.C. § 1332.

Accordingly,

IT IS ORDERED and ADJUDGED that the plaintiff has fourteen (14) days from the entry of this Order to file an affidavit with this Court limiting his recovery in this action to \$75,000, exclusive of interest and costs. The Court will remand this action to the Circuit Court of Pike County, Mississippi, if the plaintiff files such an affidavit.

SO ORDERED AND ADJUDGED, this the 20th day of April, 2018.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE